

Hearing Date and Time: December 21, 2011 at 10:00 a.m. (Eastern Time)
Response Deadline: December 8, 2011 at 4:00 p.m. (Eastern Time)

STROOCK & STROOCK & LAVAN LLP

Claude G. Szyfer

Harold A. Olsen

180 Maiden Lane

New York, New York 10038

Telephone: (212) 806-5400

Facsimile: (212) 806-6006

Attorneys for Magnetar Constellation Master Fund, Ltd

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re :
 : **Chapter 11**
LEHMAN BROTHERS HOLDINGS, INC., et al., :
 : **Case No. 08-13555 (JMP)**
 :
 : **(Jointly Administered)**
 :
-----X

**RESPONSE OF MAGNETAR CONSTELLATION MASTER FUND, LTD TO
DEBTORS' TWO HUNDRED THIRTY-THIRD OMNIBUS OBJECTION TO CLAIMS
(NO LIABILITY DERIVATIVE CLAIMS)**

Magnetar Constellation Master Fund, Ltd ("Magnetar"), by and through its undersigned counsel, hereby files its response (the "Response") to the *Debtors' Two Hundred Thirty-Third Omnibus Objection to Claims (No Liability Derivative Claims)* (the "Objection") [Docket No. 21741] and respectfully represents as follows:

BACKGROUND

1. On September 15, 2008, Lehman Brothers Holdings Inc. ("LBHI") filed a voluntary petition (the "LBHI Filing") for relief pursuant to chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"). On October 3, 2008, Lehman Brothers Special

Financing Inc. ("LBSF") filed a voluntary petition for relief pursuant to chapter 11 of the Bankruptcy Code in the Bankruptcy Court.

2. LBHI, LBSF and their chapter 11 debtor-affiliates (each a "Debtor" and collectively, the "Debtors") are operating their businesses and managing their properties as debtors in possession pursuant to Bankruptcy Code §§ 1107(a) and 1108. On September 17, 2008, an Official Committee of Unsecured Creditors was appointed in the Debtors' cases.

3. Prior to the Debtors' commencement of these cases, Magnetar and LBSF were parties to certain swap transactions (the "Transactions") documented under an ISDA master agreement, dated March 1, 2007 (the "ISDA Master Agreement"). LBSF's obligations to Magnetar thereunder were guaranteed by LBHI. The LBHI Filing constituted an Event of Default under Section 5(a)(vii) of the ISDA Master Agreement. On September 16, 2008, Magnetar terminated the Transactions under the ISDA Master Agreement pursuant to the safe harbor provisions of the Bankruptcy Code, and designated September 16, 2008, as the Early Termination Date with respect to all Transactions under the ISDA Master Agreement.

4. On September 15, 2009, Magnetar timely filed proofs of claim against LBSF (Claim number 12722) and LBHI (Claim number 12700) (collectively, the "Claims"). On September 17, 2009 and October 1, 2009, respectively, Magnetar timely submitted Derivative and Guarantee Questionnaires (the "Questionnaires") and uploaded voluminous information and documents in support of its claims, as required under the Bar Date Order (as defined in the Objection) and in full compliance with the Questionnaires. Magnetar asserts claims of \$20,130,595.00 plus interest, costs and fees resulting from early termination of the Transactions and LBHI's guarantee.

RESPONSE

5. The Objection to Magnetar's Claims should be overruled. In the Objection, the Debtors assert that the Claims should be disallowed and expunged because they "provide no basis of liability as to the Debtors." Objection, ¶11 at 4. The Debtors generally argue that they have reviewed the various claimants' claims and their own books and records and have determined that "either no amounts are owed under the Derivative Contracts to either party or the respective claimants actually owe money to the Debtors based on such Derivative Contracts." Id., ¶11 at 5. The Debtors do not articulate any specific reason why they believe Magnetar's claims are improper, nor do they offer a shred of evidence to support their position.

6. Pursuant to Rule 3001(f) of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), "[a] proof of claim executed and filed in accordance with these rules shall constitute *prima facie* evidence of the validity and amount of the claim." Here, Magnetar timely filed its Claims, and provided voluminous information and documentary support for the validity and amount of its Claims, fully complying with the detailed Questionnaire process. Accordingly, Magnetar's Claims are *prima facie* valid in the asserted amounts. In order to overcome this *prima facie* validity, the Debtors must come forward with "evidence equal in force to the *prima facie* case ... which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." In re DJK Residential LLC, 416 B.R. 100, 104 (Bankr. S.D.N.Y. 2009) (quoting In re Oneida, Ltd., 400 B.R. 384 (Bankr. S.D.N.Y. 2009); see In re Minbatiwalla, 424 B.R. 104, 111 (Bankr. S.D.N.Y. 2010). The Debtors have not offered any evidence in support of their assertion that the Claims should be disallowed as set forth in the Objection. Especially in light of the vast amount of information Magnetar was required to provide in support of its Claims, it is inappropriate for the Debtors to file an Objection that is devoid of any

evidentiary support and fails to meet the basic requirements of the Bankruptcy Code and Bankruptcy Rules. Accordingly, the Objection should be denied.

7. Magnetar reserves all of its rights, claims and defenses, including without limitation the right to discovery in connection with the Debtors' Objection.

WHEREFORE, Magnetar respectfully requests that the Court (i) overrule the Objection and allow Claims 12722 and 12700 in their asserted amount and priority, and (ii) grant such other and further relief as this Court deems just and proper under the circumstances.

Dated: December 5, 2011
New York, New York

Respectfully submitted,

STROOCK & STROOCK & LAVAN LLP

/s/ Claude G. Szyfer

Claude G. Szyfer

Harold A. Olsen

180 Maiden Lane

New York, New York 10038

Telephone: (212) 806-5400

Facsimile: (212) 806-6006

Attorneys for Magnetar Constellation Master Fund, Ltd